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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1459th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 20 March 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

later: Mr. FALL
(Vice-Chairman)

later: Mr. SHERIFIS
(Chairman)

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Review of the implementation of the Convention in States parties whose reports are excessively overdue

Côte d'Ivoire

1. The CHAIRMAN said that the Committee had before it a request from the Côte d'Ivoire authorities requesting it to defer the review procedure scheduled at the current session.

2. Mr. FALL (Country Rapporteur) said that since the consideration of Côte d'Ivoire's previous report in 1991 the Committee had had no dialogue with that State party, despite several reminders that the situation in the country needed to be reviewed, in the light of important developments that had taken place there. A deferral of four months had now been requested so that the outstanding reports could be concluded and submitted later in the year. Côte d'Ivoire had a new Government and had recently established a Human Rights Directorate, and an international investigation panel had been visiting the country since 26 February to assess the situation. Since the extension requested was short, and major events had occurred in the country, he would be in favour of recommending that the Committee should accede to Côte d'Ivoire's request so that it would be able to conduct a constructive dialogue with the delegation with a report to hand.

3. The CHAIRMAN said he took it that the Committee wished to grant the State party's request.

4. It was so agreed.

The Gambia

5. Mr. de GOUTTES (Country Rapporteur) said that, since the submission of the Gambia's initial report (CERD/C/61/Add.3) in November 1980 and its consideration by the Committee in March 1982, the situation in the country had been reviewed twice, in August 1991 and March 1996, in the absence of a periodic report and a representative. The Committee's reminders to the Gambian Government that it could call upon the technical advisory services of the Office of the United Nations High Commissioner for Human Rights had gone unheeded. While the situation in the country - one of the least developed in Africa, with widespread poverty - could account in part for its failure to prepare reports, the need for it to fulfil its obligations under the Convention must be impressed upon it.

6. In asking the State party to submit without delay an updated consolidated report prepared in accordance with the reporting guidelines, and possibly with the assistance of the aforementioned advisory services, the Committee should stress the need to furnish information on, firstly, the new Constitution of the Second Republic, which had taken effect in 1997 in the wake of the presidential and legislative elections and had led to the return of democracy,

especially the constitutional provisions that prohibited racial discrimination; and, secondly, on the ethnic composition of the population, which reportedly comprised 40.4 per cent Malinke, 18.7 per cent Fulani, 14.6 per cent Wolof, 10.3 per cent Diola, and 8.2 per cent Soninke. He also understood that some 90 per cent of Gambians were Muslims, mostly belonging to the Mouride or Tidjane religious group, with only 5 per cent Christians. The State party should confirm all those data in its next report. It was also asked to reply to the question - raised by the Committee in its concluding observations of 1991 - of the influence exerted by certain tribes on political parties in the country, where the Diola, the tribe of the President, were reportedly favoured in the administration and the armed forces.

7. Thirdly, the State party should be asked to furnish information on the situation of asylum-seekers, including those from Sierra Leone and Senegal, particularly Casamance. One very positive aspect which the Committee should acknowledge was the Gambia's new domestic legislation governing refugees, based on the basic principles of international law on the status of refugees, which should put an end to differences in the treatment meted out to refugees on the basis of nationality. As a State party to the 1951 Convention relating to the Status of Refugees, Gambia would henceforth be in a position to adhere to the Convention Relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

8. Fourthly, the Government should provide the Committee with the current texts of the Penal Code concerning racially discriminatory acts, in conformity with article 4 of the Convention, information on the means of redress available to victims of racial discrimination, in accordance with article 6, and on any compensation granted to them, and also information on any convictions of perpetrators of racist acts.

9. Fifthly, the next report must state whether the Gambia had fulfilled its obligations under articles 5 and 7. Mention should further be made of the special situation of women, who, according to the 2000 Amnesty International report, continued to be victims of discrimination and violence, including the practice of female genital mutilation still extremely widespread in rural areas. Where immigrants were concerned, the next report should state what measures were in place to prevent and punish reported ill-treatment by immigration officers. Also as was the Committee's practice, it should ask the Government to provide information on its action to disseminate the Convention and the principles enshrined therein.

10. Mr. MacDARROW (Secretary of the Committee), reporting on the secretariat's contacts with the State party, said that in addition to the written invitation to the Gambian authorities in December 2000, there had been a total of four direct contacts as well as telephone contacts with the State party's representatives, in response to which the secretariat had been informed that no representative would be available to attend the Committee's meeting.

11. The CHAIRMAN said he took it that the Committee wished to proceed along the lines suggested by Mr. de Gouttes.

12. It was so decided.

Draft concluding observations concerning the initial and second periodic reports of Japan (continued) (CERD/C/58/Misc.17/Rev.2, Future CERD/C/.../Add...)

13. The CHAIRMAN invited the Committee to resume its consideration of the paragraphs of the draft concluding observations that had been held in abeyance pending consultations on amendments proposed at an earlier meeting.

Paragraph 8

14. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) suggested that the last sentence should be reworded to read: "The population on Okinawa seeks to be recognized as a specific ethnic group and claims that the existing situation on the island leads to acts of discrimination against it."

15. Mr. SHAHI, referring to the second sentence, stated his preference for the word "communities" in place of "minorities" since it was not clear whether the State party actually recognized the communities in question as minorities.

16. Mr. YUTZIS, Mr. THORNBERRY and Mr. VALENCIA RODRIGUEZ (Country Rapporteur) stated their preference for retaining the reference to minorities as being consistent with the terminology of the Convention.

17. Paragraph 8, as amended, was adopted.

Paragraph 19

18. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that in the first sentence the phrase "to do so" should be replaced by "to make those changes".

19. Mr. PILLAI suggested changing the word order at the beginning of the first sentence, which would therefore read: "Noting that although there are no longer any administrative or legal requirements ...".

20. Paragraph 19, as amended, was adopted.

Paragraph 22

21. The CHAIRMAN drew attention to the new version of paragraph 22.

22. Replying to a question by Mr. ABOUL-NASR, Mr. VALENCIA RODRIGUEZ (Country Rapporteur) explained that gender-related racial discrimination was discrimination on ethnic or racial grounds compounded by gender-related discrimination.

23. Mr. YUTZIS said that a good example of gender-related discrimination in the State party in question was the forcing of Korean women into prostitution when they were already the victims of racial discrimination.

24. Paragraph 22, as amended, was adopted.

25. The draft concluding observations concerning the initial and second periodic reports of Japan as a whole, as amended, were adopted.

26. The CHAIRMAN said that the text of the concluding observations adopted would be sent in the first instance to the Permanent Mission of Japan to the United Nations at Geneva; thereafter, it would be made available to the press, non-governmental organizations (NGOs) and the public at large. The same procedure would be followed by the Committee with respect to the concluding observations for all other States parties in future.

27. Mr. Fall (Vice-Chairman), took the Chair.

Draft concluding observations concerning the thirteenth and fourteenth periodic reports of Algeria (CERD/C/58/Misc.8/Rev.2, future CERD/C/58/CRP...)

28. Mr. PILLAI (Country Rapporteur) said that the draft concluding observations (CERD/C/58/Misc.18/Rev.2) incorporated changes recommended by Committee members. More recently proposed amendments would be introduced during the consideration of the draft.

Paragraphs 1 to 7

29. Paragraphs 1 to 7 were adopted.

Paragraph 8

30. Mr. ABOUL-NASR said that some mention should be made of the Islamic, Arab and Amazigh nature of Algerian society, which had been highlighted both in the State party's report and in its dialogue with the Committee.

31. Mr. BOSSUYT pointed out that the preamble to the Constitution of Algeria recognized Islam, Arabness and Amazighness as the fundamental components of the identity of the Algerian people and suggested that a statement along those lines should be added at the end of the paragraph.

32. The CHAIRMAN said that, given the importance of the constitutional provision, the paragraph should begin by expressing appreciation thereof.

33. Mr. PILLAI (Country Rapporteur) supported by Mr. SHAHI, suggested that the paragraph should be redrafted to read: "The Committee appreciates the principle enunciated in the Constitution of Algeria that the fundamental components of Algeria's identity are Islam, Arabness and Amazighness, as reiterated by the Algerian delegation, and further appreciates the efforts to introduce teaching of the Amazigh language in schools."

34. Mr. BOSSUYT suggested deleting the reference to the Algerian delegation's statement; what was important was the constitutional provision.

35. Mr. THORNBERRY suggested that the paragraph should be reworded to read: "The Committee appreciates the recognition in the Algerian Constitution of the Islamic, Arab and Amazigh components of Algerian identity, and also the efforts to introduce teaching of the Amazigh language in schools."

36. Paragraph 8, as amended, was adopted.

Paragraph 9

37. Mr. PILLAI (Country Rapporteur) said the State party had justified its failure to provide statistical data on the ethnic composition of its population on the grounds that a census based on ethnic, religious and linguistic criteria was prohibited under its legislation. Since that did not conflict with paragraph 8 of the Committee's reporting guidelines, he suggested that the first part of paragraph 9 should be redrafted to read: "Noting the absence of statistical data on the ethnic composition of Algerian society, and noting that Algerian law forbids population censuses based on ethnic, religious and linguistic criteria, the Committee requests the State party to provide information on the composition of the population, as requested in paragraph 8 of the reporting guidelines ...".

38. Mr. DIACONU said it did not make sense to request information on the composition of the population after noting that Algerian law prohibited the type of census that could provide such data. The request for information must therefore be qualified by the words "some" or "approximate".

39. The CHAIRMAN said that many African countries had difficulty in providing the kind of disaggregated data required by the Committee; he therefore wondered whether the reference to relevant Algerian legislation was really necessary.

40. Mr. PILLAI (Country Rapporteur) said that the reporting guidelines hade been drafted precisely because so many States parties encountered problems in providing the type of data required by the Committee. The Committee was not requesting Algeria to amend its legislation to that end; he therefore saw no harm in retaining the reference to it.

41. Mr. DIACONU said he had misgivings about the references both to Algerian legislation and to the reporting guidelines. The formulation he would propose could also be used with respect to other States parties in a similar position. It should read: "No..ng the absence of statistical data on the ethnic composition of Algerian society, the Committee recommends that the State party provide an estimation of the composition of the population." The rest of the first sentence beginning "in particular" and the second sentence would remain unchanged.

42. Mr. de GOUTTES and Mr. PILLAI endorsed that proposal.

43. Mr. THORNBERRY suggested that the word "estimation" should be replaced by "estimate".

44. The CHAIRMAN said he would take it that the Committee wished to adopt the text read out by Mr. Diaconu, as amended by Mr. Thornberry.

45. Paragraph 9, as amended, was adopted.

Paragraph 10

46. Mr. ABOUL-NASR said that paragraph 10 was very harsh. He proposed deleting the word "deep" before "concern" as well as the entire second sentence, which falsely asserted that the law in question was not designed to protect a threatened language but rather to prohibit the use of other languages, including the language used by an important minority. The Algerian delegation had stressed that the Law on the Generalization of the Arabic Language was never applied, which was demonstrated by the very fact that the Algerian delegation had spoken French.

47. Mr. BOSSUYT said that the original version of paragraph 10 had been much more severe; it would have said that the legislation in question was in violation of international human rights law, because it imposed criminal sanctions on the use of a language and because it extended to areas that did not have an official character. Referring to the Ballantyne Davidson v. Canada case, he noted that, even though Canadian legislation had not provided for criminal sanctions, the Human Rights Committee had found it to be contrary to the International Covenant on Civil and Political Rights. According to the Algerian Law on the Generalization of the Arabic Language, all public administrations, institutions, enterprises and associations must use Arabic; signs, slogans, symbols, billboards, etc. could only be written in Arabic; an official document drafted in any language other than Arabic was null and void; and any document produced in a language other than Arabic was punishable by a fine. He had no indication that the Arabic language was in danger in Algeria, whereas in Canada the French language was threatened by English and there were reasons for Canada having decided that measures were needed to protect it. The Algerian Law was not meant to protect the Arabic language; it was directed against other languages, and the Amazigh language in particular. It might very well be, as the Algerian delegation had said, that the Law was not applied in practice, but it existed, and it had not been repealed; therefore the Committee could not ignore it. Accordingly, he did not object to deleting the word "deep", but would prefer the second sentence to be retained.

48. Mr. ABOUL-NASR pointed out that Amazigh was not a written language. Arabic was in fact a threatened language in Algeria. As a result of colonialism, it had not been spoken after independence. Even today, the embassies wrote their reports to the Ministry of Foreign Affairs in French. The courts continued to use French. He agreed with Mr. Bossuyt that the Committee should ask the Algerian Government to review and amend the legislation, but failed to see how the Committee could assert that Algeria prohibited the use of other languages if the Algerian delegation itself had spoken in French.

49. Mr. SHAHI said that the Committee's objective was to ensure that the Amazigh language was not discriminated against and that it was encouraged and flourished. The Committee should move away from condemnation. If it deleted the second sentence, it would not lose anything in substance, because the last sentence urged the Algerian Government to take steps to promote the Amazigh language.

50. Mr. BOSSUYT said he took that point and would agree to deleting the second sentence.

51. Paragraph 10, as amended, was adopted.

Paragraphs 11 and 12

52. Paragraphs 11 and 12 were adopted.

Paragraph 13

53. Mr. THORNBERRY suggested changing the words "the Nomads" to "nomadic groups".

54. Paragraph 13, as amended, was adopted.

Paragraph 14

55. Paragraph 14 was adopted.

Paragraph 15

56. Mr. DIACONU proposed changing the word "regrets" to "notes".

57. Paragraph 15, as amended, was adopted.

Paragraph 16

58. Paragraph 16 was adopted.

Paragraph 17

59. The CHAIRMAN asked whether the Committee always included the phrase "of the remedy available under article 14 of the Convention" in its concluding observations.

60. Mr. PILLAI (Country Rapporteur) said that he had included the reference because many members had observed that since 1989 not a single complaint had been submitted by an Algerian citizen to the Committee, and that it should therefore be made clear that, as the State party had made the declaration under article 14 of the Convention, remedies were available to individuals.

61. The CHAIRMAN said that the Committee had already addressed that point in paragraph 3 as a positive aspect. He noted that only three African States had made the declaration. He did not think it necessary to return to the question in paragraph 17 and make more demands on the State party than it did on other States that had made the declaration and from which the Committee had never received any communications. The Committee must be consistent.

62. Mr. BOSSUYT said that, the phrase to which the Chairman had referred was the consequence of Algeria's declaration under article 14. If the Committee had not included such wording in the concluding observations for other States, it might be a good idea to start doing so.

63. The CHAIRMAN asked whether the Committee wished to adopt such a practice in the future.

64. Mr. DIACONU said there would be no point in the Committee asking the Netherlands, for instance, to educate its population about article 14 of the Convention, since the Committee received many communications from that country. The possibility of submitting individual communications was also widely known in the Nordic countries, Slovakia and the Czech Republic. He was therefore opposed to making such a request of all States parties that had made the declaration. It would be better to delete it from the concluding observations on Algeria.

65. Mr. de GOUTTES said it should be borne in mind that one of the recommendations which would appear in the Programme of Action of the World Conference against Racism concerned the need to make known the communications procedure under article 14. He was therefore in favour of urging States to do so, and he proposed replacing the phrase "and of the remedy available under article 14 of the Convention" by the words "including those of article 14", as a compromise solution taking into account the Committee's position at the World Conference.

66. Mr. BOSSUYT said there was good reason to include such a reference for all States that had made the declaration but from which the Committee had not received any communications.

67. Mr. PILLAI (Country Rapporteur) endorsed the proposal by Mr. de Gouttes.

68. Mr. ABOUL-NASR said he preferred to retain past practice. He wondered whether the Committee had had any remedy for any complaint brought before it. He had personally been in favour of accepting every individual complaint the Committee had ever received, but so many had been rejected by other members. The Committee should not make life difficult for States parties which had made the declaration under article 14.

69. Mr. BOSSUYT said that it was one thing to stress that individuals should know about the possibility of using the complaints procedure and another to say that any communication to the Committee should be declared admissible, whether or not it was well-founded. The Committee must consider communications received under article 14 in conformity with the Convention and its Rules of Procedure. He failed to see why the Committee should not ask a State which had recognized the Committee's competence under article 14 to make the remedy available under that provision known if it appeared that the population was not aware of that possibility.

70. Mr. ABOUL-NASR said that he would not insist on his point of view.

71. Paragraph 17, as amended, was adopted.

Paragraph 18

72. Paragraph 18 was adopted.

Paragraph 19

73. Mr. BOSSUYT suggested amending the paragraph to read: "The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth periodic report due on 15 March 2003 and that it address the points raised in the present observations."

74. Paragraph 19, as amended, was adopted.

75. The draft concluding observations concerning the thirteenth and fourteenth periodic reports of Algeria as a whole, as amended, were adopted.

76. Mr. Sherifis resumed the Chair.

Draft concluding observations concerning the ninth, tenth and eleventh periodic reports of the Sudan (CERD/C/58/Misc.23/Rev.2)

77. Ms. JANUARY-BARDILL (Country Rapporteur) said that the draft concluding observations (CERD/C/58/Misc.23/Rev.2) incorporated changes suggested by Committee members.

Paragraphs 1 to 4

78. Paragraphs 1 to 4 were adopted.

Paragraph 5

79. Mr. DIACONU, referring to the last sentence of the paragraph, said it was unlikely that the Sudanese authorities had stated in the Peace Agreement their "intent to respect the rights to self-determination" of the southern Sudanese. He proposed rewording the sentence to read: "The Committee also notes with interest the understanding in this Peace Agreement to organize, after a period of four years, a referendum which may lead to self-determination of the population in the southern part of the country."

80. Mr. ABOUL-NASR said he seemed to recall that the Agreement referred to a choice between autonomy and self-determination. It might be appropriate to include a reference to autonomy.

81. Mr. DIACONU reworded the second part of his proposed amendment to read: "a referendum giving the population in the southern part of the country the possibility to pronounce itself on the status of that part of the Sudan."

82. The CHAIRMAN proposed deleting the words "with interest". He feared that the Committee was treading on hazardous ground. Self-determination was an extremely delicate issue with major implications for the future of the Sudan.

83. Mr. DIACONU quoted paragraph 30 of the periodic report of the Sudan (CERD/C/334/Add.2), which stated that the transitional period would end "with a general referendum in the South for either unity or separation".

84. Mr. FALL said that a referendum on either unity or separation was quite obviously a referendum on self-determination.

85. Mr. THORNBERRY cautioned against using the term "self-determination" because it might be interpreted as an expression of support for secession even though the Committee had recognized two separate aspects of self-determination, one internal and one external, in its General Recommendation XXI. The safest approach was to reproduce the wording used in the report as cited by Mr. Diaconu.

86. Ms. JANUARY-BARDILL (Country Rapporteur) said that the choice, as she saw it, was between reproducing the words of the report and omitting all reference to the referendum.

87. Mr. RECHETOV said that the Committee, as stated in paragraph 6 of the General Recommendation, did not recognize a unilateral right to declare secession. In the case of the Sudan, however, the Government had consented to the holding of a referendum on whether the South should remain united with the rest of the country or secede. There was no question, therefore, of unilateral secession. At the same time, he agreed with Mr. Thornberry that it was preferable to reproduce the Government's wording than to use the term "self-determination".

88. The CHAIRMAN, supported by Mr. YUTZIS, suggested inserting a reference to General Recommendation XXI.

89. Mr. SHAHI said there was no need to refer to the General Recommendation because the Committee was not seeking to impose its interpretation of self-determination on the parties.

90. Mr. ABOUL-NASR proposed simplifying the last sentence to read: "The Committee notes the efforts to implement all aspects of the Agreement reached between the two parties."

91. Mr. THORNBERRY said he thought the Committee should welcome a settlement that would, it was hoped, lead to a peaceful outcome of the protracted struggle.

92. Ms. JANUARY-BARDILL (Country Rapporteur) said she was willing to confer in private with Committee members who had made proposals in order to produce wording that was acceptable to all.

93. It was so agreed.

Paragraphs 6 and 7

94. Paragraphs 6 and 7 were adopted.

Paragraph 8

95. Mr. THORNBERRY proposed deleting the words "undermine and" in the last sentence because of the implication that all efforts by the State to implement the Convention were doomed to failure.

96. Paragraph 8, as amended, was adopted.

Paragraph 9

97. Mr. DIACONU proposed replacing the words "full details on" in the second sentence by "an estimate of" the composition of the population.

98. Ms. JANUARY-BARDILL (Country Rapporteur) said that most statistics were in any case estimates. She suggested instead "information on the composition of the population".

99. Mr. DIACONU said he had inferred from the lack of statistics in the report that Sudanese legislation prohibited the compilation of data based on ethnic origin. There was therefore no point in asking for "full details", but "information" was, in his view, too vague.

100. Mr. YUTZIS, supported by the CHAIRMAN, proposed requesting "detailed information on the composition of the population".

101. Paragraph 9, as amended, was adopted.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 11) (continued)

102. The CHAIRMAN, responding to a query by Mr. YUTZIS, recalled that the United Nations High Commissioner for Human Rights had informed the Committee that her Office would finance a six-member delegation of the Committee to the World Conference against Racism, comprising one member from each geographical region, and the Chairman. He wished to place on record that no room had been made available for the necessary consultations with the members of the Bureau, which had caused serious logistical problems. It had been decided that the members of the Bureau would contact their respective geographical groups, each of which would elect its representative, while he himself would contact the Asia-Pacific group, which was not represented on the Bureau. In his personal view, any other Committee members present at the Conference in a different capacity should be invited to form part of the Committee's delegation, but that was a matter for the Committee to decide, once the name of each regional representative was known.

103. Ms. McDOUGALL said that it had been her understanding that any Committee member who went to the Conference would definitely form part of the delegation.

104. Mr. YUTZIS pointed out that all members of the Committee had been officially invited. What was unclear was how their attendance would be funded. He had understood the High Commissioner for Human Rights to say that her Office would finance the cost of six members of the official delegation. His insistence on the matter had not been in his own interests, but in those of the Committee as a whole.

105. The CHAIRMAN confirmed that understanding. At the suggestion of Mr. FALL, he announced the names of the representatives of four regions: they were Mr. Aboul-Nasr for Africa; Mr. de Gouttes for Western Europe; Mr. Rechetov for Eastern Europe; and Mr. Yutzis for Latin America. The name of the representative for the Asia-Pacific region would be announced on the following day.

The meeting rose at 6.10 p.m.